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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/785,650	02/16/2001	James William Cooper	YOR920000753US1	4185

7590 07/13/2006	**EXAMINER**
Ryan, Mason & Lewis, LLP	HARPER, V PAUL
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ART UNIT	PAPER NUMBER
2626	

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DATE MAILED: 07/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)
Office Action Summary	09/785,650	COOPER ET AL.
	Examiner	Art Unit	
	V. Paul Harper	2626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>13 February 2006</u>.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-8,10-22 and 24-30* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,3-8,10-22 and 24-30* is/are rejected.

7)☒ Claim(s) *2* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

DETAILED ACTION

1.   In view of the Appeal Brief filed on 2/13/06, PROSECUTION IS HEREBY

REOPENED. As set forth below.

To avoid abandonment of the application, appellant must exercise one of the

following two options:

(1) file a reply under 37 CFR 1.111 (if **this Office action is non-final**) or a reply

under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed

by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and

appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth

in 37 CFR 41.20 have been increased since they were previously paid, then appellant

must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by

signing below:

Claim Objections

2.   Claim 30 is objected to under 37 CFR 1.75(c), as being of improper dependent

form for failing to further limit the subject matter of a previous claim. Applicant is

required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper

dependent form, or rewrite the claim(s) in independent form. Claim 30 repeats the

limitations given in its parent claim 19.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly
> claiming the subject matter which the applicant regards as his invention.

3.   Claim 21 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite

for failing to particularly point out and distinctly claim the subject matter which applicant

regards as the invention. There is not antecedent basis for "the time increments".

The following rejections are made by interpreting the above claims as taught by

the art used in the rejection.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by
> another filed in the United States before the invention by the applicant for patent or (2) a patent
> granted on an application for patent by another filed in the United States before the invention by the
> applicant for patent, except that an international application filed under the treaty defined in section
> 351(a) shall have the effects for purposes of this subsection of an application filed in the United States
> only if the international application designated the United States and was published under Article 21(2)
> of such treaty in the English language.

4.   Claims 1, 7, 8, 10, 11, 13, 27 and 28 are rejected under 35 U.S.C. 102(e) as

being anticipated by Mault et al. (U.S. Patent Application Publication 2001/0049470 A1),

hereinafter referred to as Mault.

        Regarding **claim1**, Mault discloses an activity-monitoring device using speech

recognition that includes the following:

*   accessing speech data (Fig. 4, Audio Input, item 95);

*   recognizing at least two voice commands from the speech data, each voice

command occurring at a different time (¶[0061], "begin swimming," "end swimming");

*   determining a first time associated with a speaking of a first of the voice commands,

wherein said first voice command identifies a start of a time interval (¶[0061],

Timestamps); and

*   determining a second time associated with a speaking of a second of the voice

commands, wherein said second voice command identifies an end of said time interval

(¶[0061] "end swimming" timestamps); and

*   storing data identifying said time interval and data identifying one or more of said

first voice command and second voice command (¶[0032] memory to record data;

¶[0061] recording of speech and timestamps).

        Regarding **claim 7**, Mault teaches everything claimed, as applied above (see

claim 1). In addition, Mault teaches:

*   recording speech onto a portable recorder (Fig. 1, ¶[0017" audio recording); and

- loading the speech data from the portable recorder to the computer system, to the speech data comprising the speech and a plurality of time stamps (Fig. 1, ¶[0017] download audio files).

Regarding **claim 8**, Mault teaches everything claimed, as applied above (see claim 1). In addition, Mault teaches "determining at least one task name from the text of the at least two voice commands" (¶[0061] "beginning <u>swimming</u>" followed by voice recognition and activity monitoring inherently requiring task identification from text).

Regarding **claim 10**, Mault teaches everything claimed, as applied above (see claim 8). In addition, Mault teaches "wherein the step of determining at least one task name comprises finding the at least one task name in the text" (see claim 8 rejection this operation supported by an activity monitoring application will require locating "swimming" in the data).

Regarding **claim 11**, Mault teaches everything claimed, as applied above (see claim 8). In addition, Mault teaches "wherein the step of determining at least one task name comprises associating at least one task name to said time interval between the first and second times, wherein the at least one task name is not in the text" (¶[0061] a variety of activities with start and stop times can be classified as "exercise" and used to accumulate activity points).

Regarding **claim 13**, Mault teaches everything claimed, as applied above (see

claim 8). In addition, Mault teaches "the step of packaging the first time, second time,

and one task name from the at least one task name into a time increment" (¶[0061] a

variety of activities with start and stop times can be classified as "exercise" and used to

accumulate activity points).

Regarding **claim 27**, this claim has limitations similar to claim 19 and is rejected

for the same reasons.

Regarding **claim 28**, this claim has limitations similar to claim 24 and is rejected

for the same reasons.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

5.   Claims 3-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Mault in view of Yahagi et al. (U.S. Patent 4,984,274), hereinafter referred to as Yahagi.

Regarding **claim 3**, Mault teaches everything claimed, as applied above (see

claim 1). In addition, Mault teaches "the speech data comprises a time stamp"

(¶[0061]), but Mault does not specifically teach that "the step of determining a first time

comprises: determining an offset time between the time stamp and a time when the first

voice command is spoken; and determining the first time through reference to the time

stamp and the offset time." However, the examiner contends that this concept was well

known in the art, as taught by Yahagi.

In the same field of endeavor, Yahagi discloses a time measuring circuit using

speech recognition (abstract). In addition, Yahagi teaches the use of a stopwatch

where the times are corrected for delays resulting from speech recognition (col. 8, lines

15-37).

Therefore, it would have been obvious to one having ordinary skill in the art at

the time the invention was made to modify Mault by specifically providing the features,

as taught by Yahagi, because it is well known in the art at the time of invention for the

purpose of providing a more accurate timing function when using speech recognition

(col. 1, lines 44-62).

Regarding **claim 4**, Mault teaches everything claimed, as applied above (see

claim 1). In addition, Mault teaches "the speech data comprises a time stamp" (¶[0061]

including a beginning and end time), but Mault does not specifically teach the following:

- the step of determining a first time comprises: determining an offset time between

the time stamp and a time when the first voice command is spoken; and determining the

first time through reference to the time stamp and the offset time; and

- the step of determining a second time comprises: determining a second offset time between the time stamp and a time when the second voice command is spoken; and determining the second time through reference to the time stamp and the second offset time. However, the examiner contends that these concepts were well known in the art, as taught by Yahagi.

In the same field of endeavor, Yahagi discloses a time measuring circuit using speech recognition (abstract). In addition, Yahagi teaches the use of a stopwatch where the times are corrected for delays resulting from speech recognition and include the operations of "start" and "stop" (col. 8, lines 15-37).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Mault by specifically providing the features, as taught by Yahagi, because it is well known in the art at the time of invention for the purpose of providing a more accurate timing function when using speech recognition (col. 1, lines 44-62) and in this case resulting in a more accurate determination of an interval.

Regarding **claim 5**, Mault in view of Yahagi teaches everything claimed, as applied above (see claim 4). In addition, Yahagi teaches:

- the step of determining the first time through reference to the time stamp and the offset time comprises the step of adding the offset time to the time stamp to determine the first time (col. 8, lines 15-37, the time delay is corrected); and

- the step of determining the second time through reference to the time stamp and the second offset time comprises the step of adding the second offset time to the time stamp to determine the second time (col. 8, lines 15-37, the time delay is corrected).

Regarding **claim 6**, Mault teaches everything claimed, as applied above (see claim 1). In addition, Mault teaches "the speech data comprises first and second time stamps" (¶[0061] the time stamps allow for the determination of the duration), but Mault does not specifically teach the following:

- the step of determining a first time comprises: determining a first offset time between the first time stamp and a time when the first voice command is spoken; and determining the first time through reference to the first time stamp and the first offset time; and

- the step of determining a second time comprises: determining a second offset time between the second time stamp and a time when the second voice command is spoken; and determining the second time through reference to the second time stamp and the second offset time. However, the examiner contends that these concepts were well known in the art, as taught by Yahagi.

In the same field of endeavor, Yahagi discloses a time measuring circuit using speech recognition (abstract). In addition, Yahagi teaches the use of a stopwatch where the times are corrected for delays resulting from speech recognition and include the operations of "start" and "stop" (col. 8, lines 15-37).

Therefore, it would have been obvious to one having ordinary skill in the art at

the time the invention was made to modify Mault by specifically providing the features,

as taught by Yahagi, because it is well known in the art at the time of invention for the

purpose of providing a more accurate timing function when using speech recognition

(col. 1, lines 44-62) and in this case resulting in a more accurate determination of an

interval.

6.   Claims 12 rejected under 35 U.S.C. 103(a) as being unpatentable over Mault in

view of Kmack et al. (U.S. Patent 6,304,851), hereinafter referred to as Kmack.

Regarding **claim 12**, Mault teaches everything claimed, as applied above (see

claim 8). In addition, Mault teaches "wherein the at least one task name comprises two

task names, a first task name associated with a first of the voice commands and a

second task name associated with a second of the voice commands" (¶[0061] e.g.,

begin/end stationary bike, begin/end swimming), but Mault does not specifically teach

the following: "wherein the first and second voice commands occur adjacent to each

other in time, wherein the first and second task name are different, and wherein the

second voice command is assumed to end a first task corresponding to the first task

name and start a second task corresponding to the second task name." However, the

examiner contends that these concepts were well known in the art, as taught by Kmack.

In the same field of endeavor, Kmack discloses a portable date collection system

that includes the ability to perform time studies (abstract). In addition, Kmack teaches

that the end of one recording event can trigger the beginning of another recording event (col. 5, lines 15-30).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Mault by specifically providing the features, as taught by Kmack, because it is well known in the art at the time of invention for the purpose of providing a more accurate timing function and more easily creating a succession of activity records for successive activities (Kmack, col. 5, lines 27-30).

7.   Claims 14, 15, 17-19, 22, 24, 26, 29, and 30 rejected under 35 U.S.C. 103(a) as being unpatentable over Mault in view of well known prior art (MPEP 2144.03).

Regarding **claim 14**, Mault teaches everything claimed, as applied above (see claim 8). In addition, Mault teaches:

• wherein the at least two voice commands comprises a plurality of voice commands, (see below) ..., each of the voice command times associated with one of the plurality of additional voice command times (¶[0061] timestamps);

• converting each of the plurality of voice commands to text (¶[0058] change voice message into typed text);

• determining a plurality of task names from the text (¶[0058] interpret the message, ¶[0061]swimming, eating etc.);

• associating a task name with two of the first time, second time, or additional plurality of voice command times (¶[0061] "begin swimming" "end swimming...", timestamps);

- creating a plurality of time increments, each time increment comprising two times of

the first time, second time, or additional plurality of voice command times and a task

name (¶[0061] a variety of activities with start and stop times can be classified as

"exercise" and used to accumulate activity points); and

- storing the plurality of time increments (¶[0015] access at a later time implies

storage; ¶[0017] ability to download implies storage;.

But Mault fails to specifically teach "**wherein the at least two voice commands**

comprises a plurality of voice commands, wherein the at least one task name

comprises a plurality of task names, and wherein the method further comprises

the steps of: determining an additional plurality of voice command times, ..."

However, the examiner takes official notice of the fact that the use of multiple terms to

mean the same thing (synonyms) was well known in the art.

Therefore, it would have been obvious to one having ordinary skill in the art at

the time the invention was made to modify Maul to support this feature, because a

speech interface that recognizes multiple words meaning the same thing is more natural

and easier to use.

Regarding **claim 15**, Mault discloses an activity monitoring device using speech

recognition that includes the following steps:

- accessing speech data comprising a plurality of time stamps and speech (Fig. 4,

Audio Input, item 95; ¶[0015] monitoring device to record time and duration; ¶[0017]

ability to download audio files with inherent time information; ¶[0061] timestamps with

audio);

- converting the speech to text (¶[0058] conversion into a typed message);

- composing a plurality of voice commands from words in the text, ... (¶[0061] "begin

swimming" etc., voice recognition may be used with inherent "phrase grammar rule");

- determining a time associated with a speaking of each of the voice commands

(¶[0061] timestamps);

- determining a plurality of tasks, each task associated with at least one of the times

and at least one of the voice commands (¶[0061] various activities, "stationary bike"

"swimming");

- determining a plurality of time increments, each time increment comprising one of

the tasks and at least one of the times (¶[0061] a variety of activities with start and stop

times can be classified as "exercise" and used to accumulate activity points); and

- storing one or more of said time increments (¶[0061] the calculating of "time

increments" has inherent storage).

But Mault fails to specifically teach "each voice command corresponding to a

phrase grammar rule." However, the examiner takes official notice that the use of

phrase grammar rules during speech recognition was well known.

Therefore, it would have been obvious to one having ordinary skill in the art at

the time the invention was made to modify Maul to support this feature, because the

application of such techniques can improve the accuracy of the results.

Regarding **claim 17**, this claim has limitations similar to claim 3 and is rejected

for the same reasons.

Regarding **claim 18**, this claim has limitations similar to claim 7 and is rejected

for the same reasons.

Regarding **claim 19**, Mault discloses an activity monitoring device using speech

recognition that includes the following:

- a memory that stores computer-readable code (Fig. 4, item 92); and

- a processor operatively coupled to the memory (Fig. 4, item 88), the processor

configured to implement the computer-readable code, the computer-readable code

configured to:

- access speech data (Fig. 4, item 95);

- recognize at least two voice commands from the speech data, each voice command

occurring at a different time (¶[0061], "begin swimming," "end swimming");

- determine a first time associated with a speaking of a first of the voice commands,

wherein said first voice command identifies a start of a time interval (¶[0061],

Timestamps);

- determine a second time associated with a speaking of a second of the to voice

commands, wherein said second voice command identifies an end of a time interval

(¶[0061] "end swimming" timestamps);

- convert each of the at least two voice commands to text (¶'s[0058], [0061] voice

recognition converts voice to typed message) and

- determine text versions of the at least two voice commands .....(¶'s [0058] typed

message) by comparing words in the text with phrase grammar rules (use of voice

recognition inherently includes pattern matching approach); and

- storing data identifying said time interval and data identifying one or more of said

first voice command and second voice command (¶[0061] recording activity and

calculating duration implies/requires storage; ¶[0015] for later recall; ¶[0017] transfer

and remote processing [and access] imply storage).

But Mault fails to specifically teach "determine text versions of the at least two

voice commands by **comparing words in the text with phrase grammar rules.**"

However, the examiner takes official notice that the use of phrase grammar rules during

speech recognition was well known.

Therefore, it would have been obvious to one having ordinary skill in the art at

the time the invention was made to modify Maul to support this feature, because the

application of such techniques can improve the accuracy of the results.

Regarding **claim 22**, Mault in view of well known prior art teaches everything

claimed, as applied above (see claim 19). In addition, Mault teaches "the system further

comprises a digital personal recorder and wherein the computer-readable code is

further configured to receive the speech data from the digital personal recorder"

(¶[0017] can download data to a remote computing device).

Regarding **claim 24**, Mault discloses an activity monitoring device using speech

recognition that includes the following:

- a memory that stores computer-readable code (Fig. 4, item 92); and

- a processor operatively coupled to the memory (Fig.4, item 88), the processor

configured to implement the computer-readable code, the computer-readable code

configured to:

- access speech data comprising a plurality of time stamps and speech (Fig. 4, item

95; ¶[0058] digital recording of speech with time and location information);

- convert the speech to text (¶'s [0058] [0061] voice recognition into text);

- compose a plurality of voice commands from words in the text, ... (¶[0061] voice

commands);

- determine a time associated with a speaking of each of the voice commands

(¶[0061] timestamps);

- determine a plurality of tasks, each task associated with at least one of the times

and at least one of the voice commands (¶[0061] multiple tasks and commands:

stationary bike, swimming, begin/ end); end

- determine a plurality of time increments, each time increment comprising one of the

tasks and at least one of the times ((¶[0061] a variety of activities with start and stop

times can be classified as "exercise" and used to accumulate activity points);and

- storing one or more of said time increments (¶[0061] the calculating of "time

increments" has inherent storage).

But Mault fails to specifically teach "..., each voice command corresponding to a **phrase grammar rule.**" However, the examiner takes official notice that the use of phrase grammar rules during speech recognition was well known.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Maul to support this feature, because the application of such techniques can improve the accuracy of the results.

Regarding **claim 26**, this claim has limitations similar to claim 22 and is rejected for the same reasons.

Regarding **claim 29**, this claim has limitations similar to claim 19 and is rejected for the same reasons.

Regarding **claim 30**, this claim has limitations similar to claim 19 and is rejected for the same reasons.

8.   Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mault in view of well known prior art and further in view of Kmack.

Regarding **claim 16**, this claim has limitations similar to claim 12 and is rejected for the same reasons.

9.   Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mault in

view of well known prior art and further in view of Yahagi.

        Regarding **claim 20**, this claim has limitations similar to claim 4 and is rejected

for the same reasons.

10.   Claims 21 and 25 rejected under 35 U.S.C. 103(a) as being unpatentable over

Mault in view of well known prior art and further in view of Tran (U.S. Patent 5,991,742),

hereinafter referred to as Tran.

        Regarding **claim 21**, Mault teaches everything claimed, as applied above (see

claim 19). In addition, Mault teaches: "store the time increments" (¶[0061] the

calculating of "time increments" has inherent storage), and Mault also teaches additional

processing of the data collected and file transfer (¶'s [0017], [0058], [0061]), but Mault

does not specifically teach "place the time increments into a file having a format suitable

for importing into a time and billing program". However, the examiner contends that

these concepts were well known in the art, as taught by Tran.

        In the same field of endeavor, Tran discloses a time and expense logging

system. Trans system includes the use of a speech recognizer for timing tasks and a

time and billing program (col. 2, lines 20-67).

        Therefore, it would have been obvious to one having ordinary skill in the art at

the time the invention was made to modify Mault by specifically providing the features,

as taught by Tran, because it is well known in the art at the time of invention that an

activity monitor that includes the ability to use a time and billing program provides

information integration advantages (Tran, col. 2, lines 5-17).

Regarding **claim 25**, this claim has limitations similar to claim 21 and is rejected

for the same reasons.

Allowable Subject Matter

Claim 2 is objected to as being dependent upon a rejected base claim, but would

be allowable if rewritten in independent form including all of the limitations of the base

claim and any intervening claims.

Conclusion

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to V. Paul Harper whose telephone number is (571) 272-

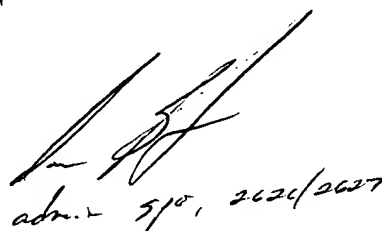7605. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, David Hudspeth can be reached on (571) 272-7843. The fax phone number

for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

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USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

7/07/2006

V. Paul Harper
Patent Examiner
Art Unit 2626